

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

GEORGE W. LUSTER, JR.,

Petitioner,

vs.

DIRECTOR, NEVADA DEPARTMENT
OF CORRECTIONS, *et al.*,

Respondents.

2:04-cv-00334-RLH-RJJ

ORDER

This represented stayed habeas action under 28 U.S.C. § 2254 comes before the Court on a motion (#96) to reopen the case filed by the petitioner *pro se*.

Petitioner is represented by counsel. He therefore may not file motions *pro se*. He may not communicate with the Court – in any manner – except through counsel.

This is at least the second time that the Court has been called upon to admonish petitioner in this particular regard. See #82. If petitioner continues to violate the Court's orders in this regard, the Court will consider possible imposition of sanctions, which may include dismissal of the petition should lesser sanctions not be a viable option.

Further, as discussed in the Court's prior order (#46), if petitioner is unable to work with and through appointed counsel, the Court will revisit the issue of whether the interests of justice continue to warrant the appointment of counsel herein.

In this instance, there does not appear to be any valid reason for petitioner filing the motion to reopen *pro se*. Petitioner has forty-five days after the issuance of the remittitur to file a motion to reopen, and it appears that the remittitur issued in the recent state court

1 proceedings on April 12, 2011. Petitioner accordingly has until May 27, 2011, to file, through
2 counsel, a motion to reopen these proceedings and possibly for other relief as provided for
3 in #95.

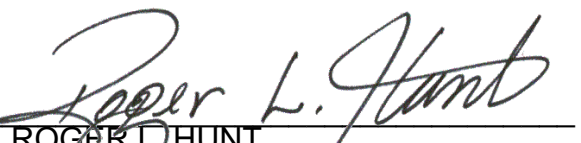
4 Petitioner must communicate what he requests his attorney to do directly to his
5 attorney. He shall not file papers – *any* papers – *pro se*. The Court absolutely will not permit
6 a “two track” pursuit of this case where both petitioner’s counsel and petitioner are filing
7 papers in the record.

8 IT THEREFORE IS ORDERED that petitioner’s *pro se* motion (#96) to reopen the case
9 is STRICKEN.

10 IT FURTHER IS ORDERED that petitioner shall not file any papers *pro se*, and he shall
11 not communicate otherwise with the Court except through counsel. Any further violations of
12 the Court’s orders in the regard may lead to the imposition of sanctions, including dismissal
13 of the petition.

14 IT FURTHER IS ORDERED that the Clerk shall provide petitioner’s counsel, via
15 attachments transmitted with this order, copies of ## 46 and 82, and that, within twenty (20)
16 days of entry of this order, counsel shall file a notice confirming that counsel has provided
17 petitioner with a copy of this order as well as ## 46 and 82.

18 DATED: April 20, 2011.

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22 ROGER L. HUNT
23 Chief United States District Judge
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